REMARKS

Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks. Claims 1-5, 7-13, 15-21, 23-27 and 33-38 were pending prior to the Office Action. Claims 28-32 are withdrawn from consideration. In this Reply, claims 39-66 are added. Therefore, claims 1-5, 7-13, 15-21, 23-27 and 33-66 are pending. Of these, claims 1, 9, 17 and 35 are independent.

OBJECTION TO THE CLAIMS

The Examiner recognizes that claims 7-8, 14-16 and 22-24 are proper multiple dependent claims. *See Office Action, Item 4.* Despite this, the Examiner improperly treats the claims as being singularly dependent.

To address this issue, new claims 39-62 are added in this Reply. Applicant respectfully requests that the rejection to the claims be withdrawn.

§ 102 REJECTION – ARIAS

Claims 1-2, 9-10, 17-18, 25-27 and 35 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Arias (US Patent 5,724,514). *See Office Action, Items 7-11.* Applicant respectfully traverses.

As recited in claim 1, when a client requests a transfer of image data sets from a server, a transfer rate of the network is measured. Based on the measured to transfer rate and also based on a permitted transfer time that is determined in advance, a number of image data sets that can be transferred is

determined. Further, if the number of the image data sets to be transferred is zero, then the client is notified via a message that the number of the image data sets to be transferred is zero.

In the Office Action, the Examiner alleges that Arias teaches the features as recited in claim 1. Arias is directed toward controlling a transfer of data between a source computer and a destination computer over a communication link. *See Arias, column 1, lines 7-13.* Arias discloses that there are two possible approaches to transfer the data. If the data connection is a high-bandwidth connection, then all secondary data objects are transferred concurrently. *See Arias, column 3, lines 7-15.* On the other hand, if the data connection is a low-bandwidth connection, then each of the secondary objects are transferred sequentially. *See Arias, column 3, lines 16-20.* More specifically, Arias discloses that when a user requests information, a primary data object is requested from a server. The effective data transfer rate for the primary data object is calculated. If the effective transfer rate is below a predetermined threshold – i.e., the connection is a low-bandwidth connection – the secondary data objects are obtained sequentially. If the effective data transfer rate is greater than the predetermined threshold – i.e., the connection is a high-bandwidth connection – the secondary data objects are obtained concurrently. *See Arias, column 5, lines 7-17.*

In other words, Arias merely teaches whether or not the secondary objects are transferred sequentially or concurrently is dependent on the

transfer rate calculated. Arias is completely silent regarding whether a permitted transfer time is factored into any decision making process. Thus, Arias cannot teach or suggest the feature of determining the number of the image data sets to be sent based on the transfer rate and a permitted transfer time determined in advance as recited in claim 1. This alone is sufficient to distinguish claim 1 from Arias.

Since Arias does not teach determining the number of image data sets to be sent based on the permitted transfer time in addition to the transfer rate, Arias cannot teach determining that the number of the image data sets to be transferred within the permitted time is zero or any other number. Then it is clear that Arias also cannot teach or suggest the feature of transferring to the client a message notifying that the number of the image data sets to be transferred is zero in the case where the number has been determined to be zero as recited in claim 1.

In the Office Action, the Examiner alleges that it is well known in the art that when the requested data does not exist on the server, the server will notify the client that the requested data does not exist. Even if the Examiner's assertion is taken to be true, at best, the determination of the number of objects to be transferred in this instance is merely based on whether or not the data exists on the server. This cannot be equated to the feature where the number of the image data sets to be transferred is determined based on the

permitted transfer time and the transfer rate. Thus, even the Examiner's assertion fails.

The Examiner also alleges that in the event where the requested data is very large and the available bandwidth is very low, a timeout message is sent to notify the client of the unsuccessful attempt in retrieving the requested data. Again, even if the Examiner's assertion is taken to be true, this merely suggests that an attempt is made to transfer the data. There is no suggestion that the number of the image data sets to be transferred is determined based on the transfer rate and the permitted transfer time in notifying the client that the number of the data sets to be transferred is zero.

Still further, in the invention as recited in claim 1, the number of the image data sets to be sent to the client is determined based on the transfer rate and a permitted transfer time in advance. In other words, the message notifying the client that the number of the image data sets to be transferred is zero, is transferred before beginning the data transfer. The timeouts situation asserted by the Examiner is clearly in contrast with the feature as recited.

For at least the above stated reasons, independent claim 1 is distinguishable over Arias.

Independent claim 9 recites, in part, "means for determining the number of the image data sets to be transferred to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance" and "means for sending a message to the client notifying the number

of image data sets is zero in the case where the number of the image data sets has been determined to be zero." It is clear that Arias cannot teach or suggest all features of claim 9. Therefore, claim 9 is distinguishable over Arias.

Claim 17 recites, in part, "determining the number of the image data sets to be sent to the client in response to the transfer request, based on the transfer rate and a permitted transfer time determined in advance" and "transferring to the client a message notifying that the number of the image data sets to be transferred is zero in the case where the number of the image data sets to be transferred has been determined to be zero." It is clear that claim 17 is distinguishable over Arias.

Independent claim 35 recites, in part, "determining an actual number of the image data sets to be sent to the client in response to the transfer request based on the transfer rate and a permitted transfer time determined in advance." Again, it is clear that claim 35 is distinguishable over Arias.

Claims 2, 10, 18 and 25-27 depend from independent claims 1, 9 and 17 directly or indirectly. Then, for at least due to the dependency thereon, these dependent claims are also distinguishable over Arias.

Applicant respectfully request that the rejection of claims 1-2, 9-10, 17-18, 25-27 and 35 based on Arias, be withdrawn.

§ 103 REJECTION – ARIAS, MOGUL

Claims 3-5, 7-8, 11-13, 15-16, 19-21, 23-24 and 33-38 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Arias in view of

Mogul (US Patent 6,243,761). *See Office Action, Items 12-16.* Applicant respectfully traverses.

It is noted that these claims depend from independent claims 1, 9, 17 and 35 directly or indirectly, and Mogul is not relied upon to correct for at least the above-noted deficiencies of Arias. Therefore, independent claims 1, 9, 17 and 35 are also distinguishable over the combination of Arias and Mogul. Then for at least the dependency thereon, these dependent claims are also distinguishable over the combination of Arias and Mogul.

Applicant respectfully requests that the rejection of claims 3-5, 7-8, 11-13, 15-15, 19-21, 23-24 and 33-38 based on Arias and Mogul, be withdrawn.

NEW CLAIMS

As noted above, claims 39-66 are added in this Reply. Applicant respectfully submits that the new claims are distinguishable over the cited references individually or in any combination for at least due to the dependency from independent claims. Applicant respectfully request that the new claims be allowed.

CONCLUSION

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact Hyung Sohn (Reg.

No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant respectfully petitions for a three (3) months extension of time for filing a reply in connection with the present application, and the required fee is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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